

**REMARKS/ARGUMENTS**

Prior to entry of this amendment, claims 1-11, 13-26, 27, and 28 were pending in this application. Claims 1, 7, 8, 9, and 13 have been amended, claims 5, 6, and 27 have been canceled, and claims 29 and 30 have been added herein. Therefore, claims 1-4, 7-11, 13-16, and 28-30 are now pending. Applicant respectfully requests reconsideration of these claims for at least the reasons presented below.

**35 U.S.C. § 103 Rejection, Belyi in view of Brodie, and Volgunin**

Claims 1-7, 13-26, and 27-28 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Pub. No. 2005/0080717 of Belyi et al. (hereinafter “Belyi”) in view of U.S. Patent No. 7,257,246 to Brodie et al. (hereinafter “Brodie”), and U.S. Patent Pub. No. 2003/0172030 of Volgunin (hereinafter “Volgunin”). The Applicants respectfully submit that the Office Action does not establish a *prima facie* case of obviousness in rejecting these claims, as amended. Therefore, the Applicants request reconsideration and withdrawal of the rejection.

In order to establish a *prima facie* case of obviousness, the Office Action must establish: 1) some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the references or combine their teachings; 2) a reasonable expectation of success of such a modification or combination; and 3) a teaching or suggestion in the cited prior art of each claimed limitation. See MPEP §706.02(j). As will be discussed below, the references cited by the Office Action do not teach or suggest each claimed limitation. For example, none of the references, alone or in combination, teach or suggest assigning a positive pay category and determining a positive pay risk score based at least in part on the positive pay category. Furthermore, none of the references teach or suggest, alone or in combination, determining a transaction risk score based on the positive pay risk score and at least one other risk score based on additional information

associated with cashing the presented check, wherein determining the transaction risk score comprises combining the positive pay risk score with the at least one other risk score.

Belyi is directed to “a system and method of risk assessment, whereby additional information is obtained from the customer and/or the merchant at a point of sale for validation of a financial transaction.” (paragraph 3) Belyi describes obtaining additional transaction information such as a customer’s recent check writing history for use in re-evaluating a transaction. (paragraphs 32-34) However, Belyi does not teach or suggest assigning a positive pay category and determining a positive pay risk score based at least in part on the positive pay category. Belyi also does not teach or suggest determining a transaction risk score based on the positive pay risk score and at least one other risk score based on additional information associated with cashing the presented check, wherein determining the transaction risk score comprises combining the positive pay risk score with the at least one other risk score.

Brodie is directed to “authenticating a check-cashing transaction and assessing risks associated with a check-cashing transaction.” (Col. 1, lines 14-16) Brodie describes a situation in which a particular check cashing transaction has exceeded risk management guidelines. In such a case, Brodie describes using a positive pay file to determine whether to override the guidelines. See col. 13, lines 37-60. However, Brodie does not teach or suggest, alone or in combination with Belyi, assigning a positive pay category and determining a positive pay risk score based at least in part on the positive pay category. Brodie also does not teach or suggest, alone or in combination with Belyi, determining a transaction risk score based on the positive pay risk score and at least one other risk score based on additional information associated with cashing the presented check, wherein determining the transaction risk score comprises combining the positive pay risk score with the at least one other risk score.

Hanna is directed to “techniques for verifying membership within a group authorized to obtain access to a predetermined resource within a computer network, and more particularly, to the assignment and use of a trust rating in at least one group credential within a

set of credentials in determining whether to provide access to the specified resource.” However, Hanna does not describe scoring risk associated with cashing a check. Thus, Hanna does not teach or suggest, alone or in combination with the other references, assigning a positive pay category and determining a positive pay risk score based at least in part on the positive pay category. Furthermore, Hanna does not teach or suggest, alone or in combination with the other references, determining a transaction risk score based on the positive pay risk score and at least one other risk score based on additional information associated with cashing the presented check, wherein determining the transaction risk score comprises combining the positive pay risk score with the at least one other risk score.

The Business Lawyer is directed to positive pay services agreements. (paragraphs 4 and 5) Such a service is described in paragraph 27. As described therein:

“Under a positive pay service, the drawer of a check delivers to its bank a ‘check issue report’ of all checks written over a particular period of time, usually each banking day. When checks are presented to the bank, the bank will provisionally settle for the checks and compare each check to the information on the check issue report. If a check apparently drawn by the drawer is presented to the payor bank but is not listed in the check issue report (or is listed differently in the report), the bank will identify the check as an ‘exception check.’ A list of exception checks is sent to the drawer for the drawer’s review. Depending on the agreement between the drawer and the payor bank, the payor bank will either finally pay the exception checks unless the drawer instructs the bank to return, or alternatively, return the exception checks unless the drawer instructs the bank to pay.”

However, The Business Lawyer does not teach or suggest, alone or in combination with the other references, assigning a positive pay category and determining a positive pay risk score based at least in part on the positive pay category. The Business Lawyer also does not teach or suggest, alone or in combination with the other references, determining a transaction risk score based on the positive pay risk score and at least one other risk score based on additional information associated with cashing the presented check, wherein determining the transaction risk score comprises combining the positive pay risk score with the at least one other risk score.

Claim 1, upon which claims 2-7 and 27 and 28 depend, recites in part “assigning a positive pay category based on a comparison of the stored positive pay information and the received information about the check; determining a positive pay risk score associated with cashing the presented check based at least in part on the assigned positive pay category; determining a transaction risk score based on the positive pay risk score and at least one other risk score based on additional information associated with cashing the presented check, wherein determining the transaction risk score comprises combining the positive pay risk score with the at least one other risk score; and determining based on the transaction risk score whether to authorize payment of the check.” None of the references, alone or in combination, teach or suggest assigning a positive pay category and determining a positive pay risk score based at least in part on the positive pay category. Furthermore, none of the references teach or suggest, alone or in combination, determining a transaction risk score based on the positive pay risk score and at least one other risk score based on additional information associated with cashing the presented check, wherein determining the transaction risk score comprises combining the positive pay risk score with the at least one other risk score. For at least these reasons, the Applicants respectfully request withdrawal of the rejection and allowance of claims 1-7, 27, and 28.

Claim 13, upon which claims 14-16 depend, recites in part “a database that stores positive pay information about checks issued by check writers to payees wherein said positive pay information indicates issued checks that check writers are willing to honor; a computer processor configured to receive input about a check presented to an entity by a check presenter claiming to be a payee, the computer processor further configured to use the input to access positive pay information from the database that is associated with the payor of the check and assign a positive pay category based on a comparison of the positive pay information from the database and the received input about the check, the computer processor further configured to determine a positive pay risk score associated with accepting the check, determine a transaction risk score based on the positive pay risk score and at least one other risk score based on

additional information associated with cashing the presented check, wherein determining the transaction risk score comprises combining the positive pay risk score with the at least one other risk score, determine based on the transaction risk score whether to authorize payment of the check, and providing cash to the payee in return for accepting the check based at least in part on authorizing payment of the check” None of the references, alone or in combination, teach or suggest assigning a positive pay category and determining a positive pay risk score based at least in part on the positive pay category. Furthermore, none of the references teach or suggest, alone or in combination, determining a transaction risk score based on the positive pay risk score and at least one other risk score based on additional information associated with cashing the presented check, wherein determining the transaction risk score comprises combining the positive pay risk score with the at least one other risk score. For at least these reasons, the Applicants respectfully request withdrawal of the rejection and allowance of claims 13-16.

**35 U.S.C. § 103 Rejection, Belyi in view of Brodie and Volgunin, and further in view of Engel**

Claims 8-11 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Belyi in view of Brodie and Volgunin, and further in view of U.S. Patent Pub. No. 2004/0138975 of Engel et al. (hereinafter “Engel”).

As noted above, Belyi, Brodie, Hanna, and The Business Lawyer do not teach or suggest, alone or in combination, assigning a positive pay category and determining a positive pay risk score based at least in part on the positive pay category. Furthermore, none of the references teach or suggest, alone or in combination, determining a transaction risk score based on the positive pay risk score and at least one other risk score based on additional information associated with cashing the presented check, wherein determining the transaction risk score comprises combining the positive pay risk score with the at least one other risk score. Engel is directed to processing orders for paper checks. See paragraph 7. However, Engle is not directed to and does not disclose scoring risk associated with cashing a check or using a positive pay file in doing so. Thus, Engle also fails to teach or suggest, alone or in combination with the other

references, assigning a positive pay category and determining a positive pay risk score based at least in part on the positive pay category. Engle also fails to teach or suggest, alone or in combination with the other references, determining a transaction risk score based on the positive pay risk score and at least one other risk score based on additional information associated with cashing the presented check, wherein determining the transaction risk score comprises combining the positive pay risk score with the at least one other risk score.

Claim 8, upon which claims 9-11 depend, recites in part “assigning a positive pay category based on comparing the transmitted data and the information stored in the positive pay database; determining a positive pay risk score associated with accepting the second-party check from a processor of the check and providing valuable consideration to the possessor in return for the second-party check based at least in part on the comparison and further based upon the positive pay category; determining a transaction risk score based on the positive pay risk score and at least one other risk score based on additional information associated with cashing the check, wherein determining the transaction risk score comprises combining the positive pay risk score with the at least one other risk score; and determining based at least in part on the transaction risk score whether to authorize payment of the second-party check.” None of the references, alone or in combination, teach or suggest assigning a positive pay category and determining a positive pay risk score based at least in part on the positive pay category. Furthermore, none of the references teach or suggest, alone or in combination, determining a transaction risk score based on the positive pay risk score and at least one other risk score based on additional information associated with cashing the presented check, wherein determining the transaction risk score comprises combining the positive pay risk score with the at least one other risk score. For at least these reasons, the Applicants respectfully request withdrawal of the rejection and allowance of claims 8-11.

Appl. No. 10/731,038  
Amdt. dated March 12, 2009  
Amendment under 37 CFR 1.114  
Request for Continued Examination

PATENT

**CONCLUSION**

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,

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